

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

BRUD ROSSMANN,

Plaintiff,

vs.

DAN CHANDLER, et al.,

Defendants.

CV 17-00075-H-BMM-JTJ

FINDINGS AND RECOMMENDATIONS OF
UNITED STATES MAGISTRATE JUDGE

Plaintiff Brud Rossmann filed a Complaint pursuant to 42 U.S.C. § 1982. On June 28, 2017, the Clerk of Court's Office sent Mr. Rossmann a Notice of Case Opening (Doc. 3) and a letter informing him that he needed to file a copy of his inmate account statement with his motion to proceed in forma pauperis. That mailing was returned as undeliverable on July 27, 2017. (Doc. 4.) The Local Rules for the District of Montana provide:

- (b) Dismissal Due to Failure to Notify. The Court may dismiss a complaint without prejudice or strike an answer when:
 - (1) a document directed to the attorney or self-represented party by the court has been returned to the court as not deliverable; and
 - (2) the court fails to receive within 60 days of this return a written communication from the attorney or self-represented party indicating a current address for service.

L.R. 5.2(b). It has been more than 60 days since the return of the Court's mail on

July 27, 2017 and Mr. Rossmann has not provided the Court with a written notice informing it of his change of address.

Therefore, IT IS HEREBY RECOMMENDED that Mr. Rossmann's Motion to Proceed in Forma Pauperis (Doc. 1) be DENIED and this action DISMISSED WITHOUT PREJUDICE pursuant to L.R. 5.2(b).

**NOTICE OF RIGHT TO OBJECT TO FINDINGS &
RECOMMENDATIONS AND CONSEQUENCES OF FAILURE TO OBJECT**

Mr. Rossmann may file objections to these Findings and Recommendations within fourteen (14) days after service (mailing) hereof.¹ 28 U.S.C. § 636. Failure to timely file written objections may bar a de novo determination by the district judge and/or waive the right to appeal.

This order is not immediately appealable to the Ninth Circuit Court of Appeals. Any notice of appeal pursuant to Fed.R.App.P. 4(a), should not be filed

DATED this 4th day of October, 2017.

/s/ John Johnston
John Johnston
United States Magistrate Judge

¹Rule 6(d) of the Federal Rules of Civil Procedure provides that “[w]hen a party may or must act within a specified time after being served and service is made under Rule 5(b)(2)(C) (mail) . . . 3 days are added after the period would otherwise expire under Rule 6(a).” Therefore, since Mr. Rossmann is being served by mail, he is entitled an additional three (3) days after the period would otherwise expire.